

REMARKS

This Amendment is submitted in reply to the Final Office Action mailed on November 4, 2009. No fees are believed to be due with this Amendment. The Commissioner is hereby authorized to charge any fees that may be required or credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 3712036-00442 on the account statement.

Claims 1-3 and 12-29 are pending in this application. Claims 21-29 are allowable. Claim 3 is objected to. Claims 1-2 and 12-15 are rejected under 35 U.S.C. §103. In response, Claim 1 has been amended and Claims 3 and 16-20 have been canceled without prejudice or disclaimer. The amendment does not add new matter and is supported in the specification at, for example, originally filed Claim 3. In view of the amendments and/or for the reasons set forth below, Applicants respectfully submit that the rejections should be reconsidered and withdrawn.

In the Office Action, the Patent Office objects to Claim 3 as being dependent upon a rejected base claim, but states that Claim 3 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. See, Office Action, page 2, lines 5-7. In response, Applicants have amended independent Claim 1 to include the subject matter of dependent Claim 3. The amendment does not add new matter and is supported in the specification at, for example, originally filed Claim 3. Applicants have also canceled Claim 3 without prejudice or disclaimer. For at least the above-mentioned reasons, Applicants respectfully submit that Claim 1 is now in position for allowance.

Accordingly, Applicants respectfully request that the objection to Claim 3 as being dependent upon a rejected base claim be reconsidered and withdrawn.

In the Office Action, Claims 1-2 and 12-15 are rejected under 35 U.S.C. §103(a) as being unpatentable over Industrial Chocolate Manufacture and Use to Beckett et al. ("*Beckett*") in view of Chocolate, Cocoa and Confectionery: Science and Technology to Minifie ("*Minifie*"). In view of the amendments, and/or for at least the reasons set forth below, Applicants respectfully submit that the cited references are deficient with respect to the present claims.

Currently amended independent Claim 1 recites, in part, a method for lowering the viscosity of a fat based mixture comprising solids and fat that have been previously refined to a powdery mass, wherein the elongational flow is achieved by forcing, under pressure and in a

continuous manner, a flow of the powdery mass through a plurality of holes of at least one die plate, the holes positioned relative to the flow. The amendments do not add new matter and are supported in the specification at, for example, originally filed Claim 3.

As discussed above, the Patent Office states that Claim 3 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. See, Office Action, page 2, lines 5-7. Accordingly, independent Claim 1 has been amended to include the subject matter of Claim 3. For at least the reasons discussed above, Applicants respectfully submit that independent Claim 1, along with the claims that depend therefrom are novel, nonobvious and distinguishable from the cited references and are now in position for allowance.

Accordingly, Applicants respectfully request that the rejection of Claims 1-2 and 12-15 under 35 U.S.C. §103 be reconsidered and withdrawn.

The Patent Office also states that "[a] complete reply to the final rejection must include cancellation of nonelected [Claims 16-20]." See, Office Action, page 4, lines 6-8. In response, Applicants have canceled Claims 16-20 without prejudice or disclaimer. However, Applicants reserve the right to pursue the full scope of the subject matter of Claims 16-20 in a subsequent patent application that claims priority to the instant application.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same. In the event there remains any impediment to allowance of the claims which could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate such an interview with the undersigned.

Respectfully submitted,

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